

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

K.C. 1986 LIMITED PARTNERSHIP,

Plaintiff,

v.

READE MANUFACTURING, et al.

Defendants.

U.S. BORAX INC.

Counterclaimant,

v.

K.C. 1986 LIMITED PARTNERSHIP,

Counterdefendant.

U.S. BORAX INC.

Cross Claimant,

v.

REMACOR, et al.

Cross Defendants.

U.S. BORAX INC.

Third-Party Plaintiff,

v.

HABCO, INC., et al.

Third-Party Defendants.

Case No. 02-0853-CV-W-NKL

AMENDED JUDGMENT NUNC PRO TUNC IN A CIVIL CASE

— Jury Verdict. This action came before the Court for a trial by jury.

XX Decision by Court. This action came to trial or hearing before the Court.

The issues have been determined and a decision has been made.

Pursuant to the Allocation Order (filed Jan. 7, 2005) and the Order (filed Apr. 4, 2005), both entered by the Honorable Nanette K. Laughrey, IT IS ORDERED AND ADJUDGED THAT:

- (1) as of March 1, 2004 (*see* Minute Sheet (dated Apr. 14, 2004)), U.S. Borax Inc. ("Borax") incurred recoverable response costs under CERCLA in the amount of \$1,160,673.17;
- (2) Borax is entitled to prejudgment interest in the amount of \$98,664.36;
- (3) Borax's past recoverable response costs and prejudgment interest total \$1,259,337.53 ("Borax's Past Costs");
- (4) Borax is liable for 10% of Borax's Past Costs, DeAngelo Brothers, Inc. is liable for 15% of Borax's Past Costs, Victor Horne is liable for 15% of Borax's Past Costs, K.C. 1986 Limited Partnership is liable for 20% of Borax's Past Costs, Donald Horne is liable for 18% of Borax's Past Costs based on his Habco Era liability, and Donald Horne is liable for an additional 22% of Borax's Past Costs based on his K.C. 1986 Era liability;
- (5) based on this allocation, DeAngelo Brothers, Inc. is liable to Borax for \$188,900.63, Victor Horne is liable to Borax for \$188,900.63, K.C. 1986 Limited Partnership is liable to Borax for \$251,867.51, Donald Horne is liable to Borax for \$226,680.76 based on his Habco Era liability, and Donald Horne is liable to Borax for an additional \$277,054.26 based on his K.C. 1986 Era liability; and
- (6) future response costs incurred by Borax shall be allocated using the same percentages as for Borax's Past Costs, with Borax liable for 10% of those costs, DeAngelo Brothers, Inc. liable for 15% of those costs, Victor Horne liable for 15% of those costs, K.C. 1986 Limited Partnership liable for 20% of those costs, Donald Horne liable for 18% of those costs based on his Habco Era liability, and Donald Horne liable for an additional 22% of those costs based on his K.C. 1986 Era liability.

This Order constitutes final judgment in this case as of April 4, 2005.

Dated March 31, 2006, *nunc pro tunc* April 4, 2005.

AT THE DIRECTION OF THE COURT

s/ P.L. BRUNE
CLERK

s/ RENEA KANIES
By: Renea Kanies, Courtroom Deputy